

AMENDED IN SENATE AUGUST 13, 2012

AMENDED IN SENATE JULY 6, 2012

AMENDED IN SENATE JUNE 26, 2012

AMENDED IN SENATE JUNE 15, 2012

AMENDED IN SENATE JUNE 27, 2011

AMENDED IN SENATE JUNE 20, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 492

Introduced by Assembly Member Galgiani

February 15, 2011

An act to amend Section 640 of the Penal Code, and to amend Section 99580 of the Public Utilities Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

AB 492, as amended, Galgiani. Public transportation agencies: administrative penalties.

Existing law authorizes certain transit operators to adopt and enforce an ordinance to impose and enforce civil administrative penalties for fare evasion or passenger misconduct, other than by minors, on or in a transit facility or vehicle in lieu of the criminal penalties otherwise applicable, with specified administrative adjudication procedures for the imposition and enforcement of the administrative penalties, including an initial review and opportunity for a subsequent administrative hearing.

This bill would extend the application of these provisions to all public transportation agencies, as defined. The bill would require the penalties collected by a public transportation agency to be deposited in the general

fund of the county in which the citation is administered. The bill would make conforming changes.

This bill would incorporate additional changes to Section 640 of the Penal Code and Section 99580 of the Public Utilities Code proposed by AB 2247 that would become operative if this bill and AB 2247 are enacted, and this bill is enacted last.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 640 of the Penal Code is amended to
2 read:

3 640. (a) (1) Any of the acts described in paragraphs (1) to (5),
4 inclusive, of subdivision (b) is an infraction punishable by a fine
5 not to exceed two hundred fifty dollars (\$250) and by community
6 service for a total time not to exceed 48 hours over a period not to
7 exceed 30 days, during a time other than during the violator's hours
8 of school attendance or employment. Any of the acts described in
9 paragraphs (1) to (3), inclusive, of subdivision (c), upon a first or
10 second violation, is an infraction punishable by a fine not to exceed
11 two hundred fifty dollars (\$250) and by community service for a
12 total time not to exceed 48 hours over a period not to exceed 30
13 days, during a time other than during the violator's hours of school
14 attendance or employment. A third or subsequent violation of any
15 of the acts described in paragraphs (1) to (3), inclusive, of
16 subdivision (c) is a misdemeanor punishable by a fine of not more
17 than four hundred dollars (\$400) or by imprisonment in a county
18 jail for a period of not more than 90 days, or by both that fine and
19 imprisonment. Any of the acts described in subdivision (d) shall
20 be punishable by a fine of not more than four hundred dollars
21 (\$400), by imprisonment in a county jail for a period of not more
22 than 90 days, or by both that fine and imprisonment.

23 (2) This section shall apply only to acts committed on or in a
24 facility or vehicle of a public transportation system.

25 (b) (1) Eating or drinking in or on a system facility or vehicle
26 in areas where those activities are prohibited by that system.

27 (2) Disturbing another person by loud or unreasonable noise.

28 (3) Smoking in or on a system facility or vehicle in areas where
29 those activities are prohibited by that system.

1 (4) Expecting upon a system facility or vehicle.

2 (5) Skateboarding, roller skating, bicycle riding, roller blading,
3 or operating a motorized scooter or similar device, as defined in
4 Section 407.5 of the Vehicle Code in a system facility, vehicle, or
5 parking structure. This paragraph does not apply to an activity that
6 is necessary for utilization of the transit facility by a bicyclist,
7 including, but not limited to, an activity that is necessary for
8 parking a bicycle or transporting a bicycle aboard a transit vehicle,
9 if that activity is conducted with the permission of the transit
10 agency in a manner that does not interfere with the safety of the
11 bicyclist or other patrons of the transit facility.

12 (c) (1) Evasion of the payment of a fare of the system. For
13 purposes of this section, fare evasion includes entering an enclosed
14 area of a public transit facility beyond posted signs prohibiting
15 entrance without obtaining valid fare, in addition to entering a
16 transit vehicle without valid fare.

17 (2) Misuse of a transfer, pass, ticket, or token with the intent to
18 evade the payment of a fare.

19 (3) (A) Unauthorized use of a discount ticket or failure to
20 present, upon request from a transit system representative,
21 acceptable proof of eligibility to use a discount ticket, in
22 accordance with Section 99155 of the Public Utilities Code and
23 posted system identification policies when entering or exiting a
24 transit station or vehicle. Acceptable proof of eligibility must be
25 clearly defined in the posting.

26 (B) In the event that an eligible discount ticket user is not in
27 possession of acceptable proof at the time of request, any citation
28 issued shall be held for a period of 72 hours to allow the user to
29 produce acceptable proof. If the proof is provided, the citation
30 shall be voided. If the proof is not produced within that time period,
31 the citation shall be processed.

32 (d) (1) Willfully disturbing others on or in a system facility or
33 vehicle by engaging in boisterous or unruly behavior.

34 (2) Carrying an explosive, acid, or flammable liquid in a public
35 transit facility or vehicle.

36 (3) Urinating or defecating in a system facility or vehicle, except
37 in a lavatory. However, this paragraph shall not apply to a person
38 who cannot comply with this paragraph as a result of a disability,
39 age, or a medical condition.

(4) Willfully blocking the free movement of another person in a system facility or vehicle. This paragraph shall not be interpreted to affect any lawful activities permitted or First Amendment rights protected under the laws of this state or applicable federal law, including, but not limited to, laws related to collective bargaining, labor relations, or labor disputes.

(5) Willfully tampering with, removing, displacing, injuring, or destroying any part of any facility or vehicle of a public transportation system.

(e) Notwithstanding subdivision (a), a public transportation agency, as defined in paragraph (4) of subdivision (c) of Section 99580 of the Public Utilities Code, may enact and enforce an ordinance providing that a person who is the subject of a citation for any of the acts described in subdivision (b) or (c) on or in a facility or vehicle described in subdivision (a) for which the public transportation agency has jurisdiction shall, under the circumstances set forth by the ordinance, be afforded an opportunity to complete an administrative process that imposes only an administrative penalty enforced in a civil proceeding. The ordinance for imposing and enforcing the administrative penalty shall be governed by Chapter 8 (commencing with Section 99580) of Part 11 of Division 10 of the Public Utilities Code and shall not apply to minors.

(f) For purposes of this section, a “facility or vehicle of a public transportation system” means any of the following:

(1) A facility or vehicle of a public transportation system as defined by Section 99211 of the Public Utilities Code.

(2) A facility of, or vehicle operated by any entity subsidized by, the Department of Transportation.

(3) A facility or vehicle of the Southern California Regional Rail Authority, whether owned or leased.

(4) A leased or rented facility or vehicle for which any of the entities described in paragraph (1), (2), or (3) incurs costs of cleanup, repair, or replacement as a result of any of those acts.

SEC. 1.5. Section 640 of the Penal Code is amended to read:

640. (a) (1) Any of the acts described in paragraphs (1) to ~~(5)~~ (6), inclusive, of subdivision (b) is an infraction punishable by a fine not to exceed two hundred fifty dollars (\$250) and by community service for a total time not to exceed 48 hours over a period not to exceed 30 days, during a time other than during the

1 violator's hours of school attendance or employment. Any of the
2 acts described in paragraphs (1) to (3), inclusive, of subdivision
3 (c), upon a first or second violation, is an infraction punishable by
4 a fine not to exceed two hundred fifty dollars (\$250) and by
5 community service for a total time not to exceed 48 hours over a
6 period not to exceed 30 days, during a time other than during the
7 violator's hours of school attendance or employment. A third or
8 subsequent violation of any of the acts described in paragraphs (1)
9 to (3), inclusive, of subdivision (c) is a misdemeanor punishable
10 by a fine of not more than four hundred dollars (\$400) or by
11 imprisonment in a county jail for a period of not more than 90
12 days, or by both that fine and imprisonment. Any of the acts
13 described in subdivision (d) shall be punishable by a fine of not
14 more than four hundred dollars (\$400), by imprisonment in a
15 county jail for a period of not more than 90 days, or by both that
16 fine and imprisonment.

17 (2) This section shall apply only to acts committed on or in a
18 facility or vehicle of a public transportation system.

19 (b) (1) Eating or drinking in or on a system facility or vehicle
20 in areas where those activities are prohibited by that system.

21 (2) Disturbing another person by loud or unreasonable noise.

22 (3) Smoking in or on a system facility or vehicle in areas where
23 those activities are prohibited by that system.

24 (4) Expectorating upon a system facility or vehicle.

25 (5) Skateboarding, roller skating, bicycle riding, roller blading,
26 or operating a motorized scooter or similar device, as defined in
27 Section 407.5 of the Vehicle Code in a system facility, vehicle, or
28 parking structure. This paragraph does not apply to an activity that
29 is necessary for utilization of the transit facility by a bicyclist,
30 including, but not limited to, an activity that is necessary for
31 parking a bicycle or transporting a bicycle aboard a transit vehicle,
32 if that activity is conducted with the permission of the transit
33 agency in a manner that does not interfere with the safety of the
34 bicyclist or other patrons of the transit facility.

35 (6) *Sale or peddling of any goods, merchandise, property, or*
36 *services of any kind whatsoever on the facilities, vehicles, or*
37 *property of the public transportation system, if the public*
38 *transportation system has prohibited those acts and neither the*
39 *public transportation system nor its duly authorized representatives*
40 *have granted written consent to engage in those acts.*

1 (c) (1) Evasion of the payment of a fare of the system. For
2 purposes of this section, fare evasion includes entering an enclosed
3 area of a public transit facility beyond posted signs prohibiting
4 entrance without obtaining valid fare, in addition to entering a
5 transit vehicle without valid fare.

6 (2) Misuse of a transfer, pass, ticket, or token with the intent to
7 evade the payment of a fare.

8 (3) (A) Unauthorized use of a discount ticket or failure to
9 present, upon request from a transit system representative,
10 acceptable proof of eligibility to use a discount ticket, in
11 accordance with Section 99155 of the Public Utilities Code and
12 posted system identification policies when entering or exiting a
13 transit station or vehicle. Acceptable proof of eligibility must be
14 clearly defined in the posting.

15 (B) In the event that an eligible discount ticket user is not in
16 possession of acceptable proof at the time of request, any citation
17 issued shall be held for a period of 72 hours to allow the user to
18 produce acceptable proof. If the proof is provided, the citation
19 shall be voided. If the proof is not produced within that time period,
20 the citation shall be processed.

21 (d) (1) Willfully disturbing others on or in a system facility or
22 vehicle by engaging in boisterous or unruly behavior.

23 (2) Carrying an explosive, acid, or flammable liquid in a public
24 transit facility or vehicle.

25 (3) Urinating or defecating in a system facility or vehicle, except
26 in a lavatory. However, this paragraph shall not apply to a person
27 who cannot comply with this paragraph as a result of a disability,
28 age, or a medical condition.

29 (4) Willfully blocking the free movement of another person in
30 a system facility or vehicle. This paragraph shall not be interpreted
31 to affect any lawful activities permitted or First Amendment rights
32 protected under the laws of this state or applicable federal law,
33 including, but not limited to, laws related to collective bargaining,
34 labor relations, or labor disputes.

35 (5) Willfully tampering with, removing, displacing, injuring,
36 or destroying any part of any facility or vehicle of a public
37 transportation system.

38 (e) Notwithstanding subdivision (a), ~~the City and County of San~~
39 ~~Francisco, the Los Angeles County Metropolitan Transportation~~
40 ~~Authority, the Southern California Regional Rail Authority, the~~

~~Santa Clara Valley Transportation Authority, the Sacramento Regional Transit District, Long Beach Transit, Foothill Transit, the North County Transit District, and the Alameda-Contra Costa Transit District~~ a public transportation agency, as defined in paragraph (4) of subdivision (c) of Section 99580 of the Public Utilities Code, may enact and enforce an ordinance providing that a person who is the subject of a citation for any of the acts described in subdivision (b) ~~or (e)~~ of Section 99580 of the Public Utilities Code on or in a facility or vehicle described in subdivision (a) for which the ~~City and County of San Francisco, the Los Angeles County Metropolitan Transportation Authority, the Southern California Regional Rail Authority, the Santa Clara Valley Transportation Authority, the Sacramento Regional Transit District, Long Beach Transit, Foothill Transit, the North County Transit District, or the Alameda-Contra Costa Transit District~~ public transportation agency has jurisdiction shall, under the circumstances set forth by the ordinance, be afforded an opportunity to complete an administrative process that imposes only an administrative penalty enforced in a civil proceeding. The ordinance for imposing and enforcing the administrative penalty shall be governed by Chapter 8 (commencing with Section 99580) of Part 11 of Division 10 of the Public Utilities Code and shall not apply to minors.

(f) For purposes of this section, a “facility or vehicle of a public transportation system” means any of the following:

(1) A facility or vehicle of a public transportation system as defined by Section 99211 of the Public Utilities Code.

(2) A facility of, or vehicle operated by any entity subsidized by, the Department of Transportation.

(3) A facility or vehicle of the Southern California Regional Rail Authority, whether owned or leased.

(4) A leased or rented facility or vehicle for which any of the entities described in paragraph (1), (2), or (3) incurs costs of cleanup, repair, or replacement as a result of any of those acts.

SEC. 2. Section 99580 of the Public Utilities Code is amended to read:

99580. (a) Pursuant to ~~paragraph (1) of~~ subdivision (e) of Section 640 of the Penal Code, a public transportation agency may enact and enforce an ordinance to impose and enforce an administrative penalty for any of the acts described in subdivision

- 1 (b). The ordinance shall include the provisions of this chapter and
2 shall not apply to minors.
- 3 (b) (1) Evasion of the payment of a fare of the system.
- 4 (2) Misuse of a transfer, pass, ticket, or token with the intent to
5 evade the payment of a fare.
- 6 (3) Playing sound equipment on or in a system facility or
7 vehicle.
- 8 (4) Smoking, eating, or drinking in or on a system facility or
9 vehicle in those areas where those activities are prohibited by that
10 system.
- 11 (5) Expectorating upon a system facility or vehicle.
- 12 (6) Willfully disturbing others on or in a system facility or
13 vehicle by engaging in boisterous or unruly behavior.
- 14 (7) Carrying an explosive or acid, flammable liquid, or toxic or
15 hazardous material in a system facility or vehicle.
- 16 (8) Urinating or defecating in a system facility or vehicle, except
17 in a lavatory. However, this paragraph shall not apply to a person
18 who cannot comply with this paragraph as a result of a disability,
19 age, or a medical condition.
- 20 (9) (A) Willfully blocking the free movement of another person
21 in a system facility or vehicle.
- 22 (B) This paragraph shall not be interpreted to affect any lawful
23 activities permitted or first amendment rights protected under the
24 laws of this state or applicable federal law, including, but not
25 limited to, laws related to collective bargaining, labor relations,
26 or labor disputes.
- 27 (10) Skateboarding, roller skating, bicycle riding, or roller
28 blading in a system facility, including a parking structure, or in a
29 system vehicle. This paragraph does not apply to an activity that
30 is necessary for utilization of a system facility by a bicyclist,
31 including, but not limited to, an activity that is necessary for
32 parking a bicycle or transporting a bicycle aboard a system vehicle,
33 if that activity is conducted with the permission of the agency of
34 the system in a manner that does not interfere with the safety of
35 the bicyclist or other patrons of the system facility.
- 36 (11) (A) Unauthorized use of a discount ticket or failure to
37 present, upon request from a system representative, acceptable
38 proof of eligibility to use a discount ticket, in accordance with
39 Section 99155, and posted system identification policies when

1 entering or exiting a system station or vehicle. Acceptable proof
2 of eligibility must be clearly defined in the posting.

3 (B) In the event that an eligible discount ticket user is not in
4 possession of acceptable proof at the time of request, an issued
5 notice of fare evasion or passenger conduct violation shall be held
6 for a period of 72 hours to allow the user to produce acceptable
7 proof. If the proof is provided, that notice shall be voided. If the
8 proof is not produced within that time period, that notice shall be
9 processed.

10 (c) (1) The public transportation agency may contract with a
11 private vendor or governmental agency for the processing of notices
12 of fare evasion or passenger conduct violation, and notices of
13 delinquent fare evasion or passenger conduct violation pursuant
14 to Section 99581.

15 (2) For the purpose of this chapter, “processing agency” means
16 either of the following:

17 (A) The agency issuing the notice of fare evasion or passenger
18 conduct violation and the notice of delinquent fare evasion or
19 passenger conduct violation.

20 (B) The party responsible for processing the notice of fare
21 evasion or passenger conduct violation and the notice of delinquent
22 violation, if a contract is entered into pursuant to paragraph (1).

23 (3) For the purpose of this chapter, “fare evasion or passenger
24 conduct violation penalty” includes, but is not limited to, a late
25 payment penalty, administrative fee, fine, assessment, and costs
26 of collection as provided for in the ordinance.

27 (4) For the purpose of this chapter, “public transportation
28 agency” shall mean a public agency that provides public
29 transportation as defined in paragraph (1) of subdivision (f) of
30 Section 1 of Article XIX A of the California Constitution.

31 (5) All fare evasion and passenger conduct violation penalties
32 collected pursuant to this chapter shall be deposited in the general
33 fund of the county in which the citation is administered.

34 (d) (1) If a fare evasion or passenger conduct violation is
35 observed by a person authorized to enforce the ordinance, a notice
36 of fare evasion or passenger conduct violation shall be issued. The
37 notice shall set forth the violation, including reference to the
38 ordinance setting forth the administrative penalty, the date of the
39 violation, the approximate time, and the location where the
40 violation occurred. The notice shall include a printed statement

1 indicating the date payment is required to be made, and the
2 procedure for contesting the notice. The notice shall be served by
3 personal service upon the violator. The notice, or copy of the
4 notice, shall be considered a record kept in the ordinary course of
5 business of the issuing agency and the processing agency, and
6 shall be prima facie evidence of the facts contained in the notice
7 establishing a rebuttable presumption affecting the burden of
8 producing evidence.

9 (2) When a notice of fare evasion or passenger conduct violation
10 has been served, the person issuing the notice shall file the notice
11 with the processing agency.

12 (3) If a person contests a notice of fare evasion or passenger
13 conduct violation, the issuing agency shall proceed in accordance
14 with Section 99581.

15 (e) In setting the amounts of administrative penalties for the
16 violations listed in subdivision (b), the public transportation agency
17 shall not establish penalty amounts that exceed the maximum fine
18 amount set forth in Section 640 of the Penal Code.

19 (f) A person who receives a notice of fare evasion or passenger
20 conduct violation pursuant to this section shall not be subject to
21 citation for a violation of Section 640 of the Penal Code.

22 (g) If an entity enacts an ordinance pursuant to this section it
23 shall, both two years and five years after enactment of the
24 ordinance, report all of the following information to the Senate
25 Committee on Transportation and Housing and the Assembly
26 Committee on Transportation:

27 (1) A description of the ordinance, including the circumstances
28 under which an alleged violator is afforded the opportunity to
29 complete the administrative process.

30 (2) The amount of the administrative penalties.

31 (3) The number and types of citations administered pursuant to
32 the ordinance.

33 (4) To the extent available, a comparison of the number and
34 types of citations administered pursuant to the ordinance with the
35 number and types of citations issued for similar offenses and
36 administered through the courts both in the two years prior to the
37 ordinance and, if any, since enactment of the ordinance.

38 (5) A discussion of the effect of the ordinance on passenger
39 behavior.

1 (6) A discussion of the effect of the ordinance on revenues to
2 the entity described in subdivision (a) and, in consultation with
3 the superior courts, the cost savings to the county courts. The
4 superior courts are encouraged to collaborate on and provide data
5 for this report.

6 *SEC. 2.5. Section 99580 of the Public Utilities Code is amended*
7 *to read:*

8 99580. (a) Pursuant to ~~paragraph (1) of~~ subdivision (e) of
9 Section 640 of the Penal Code, ~~the City and County of San~~
10 ~~Francisco, the Los Angeles County Metropolitan Transportation~~
11 ~~Authority, the Southern California Regional Rail Authority, the~~
12 ~~Santa Clara Valley Transportation Authority, the Sacramento~~
13 ~~Regional Transit District, Long Beach Transit, Foothill Transit,~~
14 ~~the North County Transit District, and the Alameda-Contra Costa~~
15 ~~Transit District~~ a public transportation agency may enact and
16 enforce an ordinance to impose and enforce an administrative
17 penalty for any of the acts described in subdivision (b). The
18 ordinance shall include the provisions of this chapter and shall not
19 apply to minors.

20 (b) (1) Evasion of the payment of a fare of the system.

21 (2) Misuse of a transfer, pass, ticket, or token with the intent to
22 evade the payment of a fare.

23 (3) Playing sound equipment on or in a system facility or
24 vehicle.

25 (4) Smoking, eating, or drinking in or on a system facility or
26 vehicle in those areas where those activities are prohibited by that
27 system.

28 (5) Expectorating upon a system facility or vehicle.

29 (6) Willfully disturbing others on or in a system facility or
30 vehicle by engaging in boisterous or unruly behavior.

31 (7) Carrying an explosive or acid, flammable liquid, or toxic or
32 hazardous material in a system facility or vehicle.

33 (8) Urinating or defecating in a system facility or vehicle, except
34 in a lavatory. However, this paragraph shall not apply to a person
35 who cannot comply with this paragraph as a result of a disability,
36 age, or a medical condition.

37 (9) (A) Willfully blocking the free movement of another person
38 in a system facility or vehicle.

39 (B) This paragraph shall not be interpreted to affect any lawful
40 activities permitted or first amendment rights protected under the

1 laws of this state or applicable federal law, including, but not
2 limited to, laws related to collective bargaining, labor relations,
3 or labor disputes.

4 (10) Skateboarding, roller skating, bicycle riding, or roller
5 blading in a system facility, including a parking structure, or in a
6 system vehicle. This paragraph does not apply to an activity that
7 is necessary for utilization of a system facility by a bicyclist,
8 including, but not limited to, an activity that is necessary for
9 parking a bicycle or transporting a bicycle aboard a system vehicle,
10 if that activity is conducted with the permission of the agency of
11 the system in a manner that does not interfere with the safety of
12 the bicyclist or other patrons of the system facility.

13 (11) (A) Unauthorized use of a discount ticket or failure to
14 present, upon request from a system representative, acceptable
15 proof of eligibility to use a discount ticket, in accordance with
16 Section 99155, and posted system identification policies when
17 entering or exiting a system station or vehicle. Acceptable proof
18 of eligibility must be clearly defined in the posting.

19 (B) In the event that an eligible discount ticket user is not in
20 possession of acceptable proof at the time of request, an issued
21 notice of fare evasion or passenger conduct violation shall be held
22 for a period of 72 hours to allow the user to produce acceptable
23 proof. If the proof is provided, that notice shall be voided. If the
24 proof is not produced within that time period, that notice shall be
25 processed.

26 (12) *Sale or peddling of any goods, merchandise, property, or*
27 *services of any kind whatsoever on the facilities, vehicles, or*
28 *property of the public transportation system without the express*
29 *written consent of the public transportation system or its duly*
30 *authorized representatives.*

31 (c) (1) ~~The City and County of San Francisco, the Los Angeles~~
32 ~~County Metropolitan Transportation Authority, the Santa Clara~~
33 ~~Valley Transportation Authority, the Sacramento Regional Transit~~
34 ~~District, the Southern California Regional Rail Authority, Long~~
35 ~~Beach Transit, Foothill Transit, the North County Transit District,~~
36 ~~and the Alameda-Contra Costa Transit District~~ *public*
37 *transportation agency* may contract with a private vendor or
38 governmental agency for the processing of notices of fare evasion
39 or passenger conduct violation, and notices of delinquent fare
40 evasion or passenger conduct violation pursuant to Section 99581.

1 (2) For the purpose of this chapter, “processing agency” means
2 either of the following:

3 (A) The agency issuing the notice of fare evasion or passenger
4 conduct violation and the notice of delinquent fare evasion or
5 passenger conduct violation.

6 (B) The party responsible for processing the notice of fare
7 evasion or passenger conduct violation and the notice of delinquent
8 violation, if a contract is entered into pursuant to paragraph (1).

9 (3) For the purpose of this chapter, “fare evasion or passenger
10 conduct violation penalty” includes, but is not limited to, a late
11 payment penalty, administrative fee, fine, assessment, and costs
12 of collection as provided for in the ordinance.

13 ~~(4) All fare evasion and passenger conduct violation penalties~~
14 ~~collected by the processing agency in the City and County of San~~
15 ~~Francisco shall be deposited to the general fund of the City and~~
16 ~~County of San Francisco.~~

17 ~~(5) All fare evasion and passenger conduct violation penalties~~
18 ~~collected by the Long Beach Transit or Foothill Transit shall be~~
19 ~~deposited in the general fund of the County of Los Angeles.~~

20 *(4) For the purpose of this chapter, “public transportation*
21 *agency” shall mean a public agency that provides public*
22 *transportation as defined in paragraph (1) of subdivision (f) of*
23 *Section 1 of Article XIX A of the California Constitution.*

24 ~~(6)~~
25 (5) All fare evasion and passenger conduct violation penalties
26 collected by the Los Angeles County Metropolitan Transportation
27 Authority pursuant to this chapter shall be deposited in the general
28 fund of the county in which the citation is administered.

29 ~~(7) All fare evasion and passenger conduct violation penalties~~
30 ~~collected by the Santa Clara Valley Transportation Authority shall~~
31 ~~be deposited in the general fund of the County of Santa Clara.~~

32 ~~(8) All fare evasion and passenger conduct violation penalties~~
33 ~~collected by the Sacramento Regional Transit District shall be~~
34 ~~deposited in the general fund of the County of Sacramento.~~

35 ~~(9) All fare evasion and passenger conduct violation penalties~~
36 ~~collected by the Alameda-Contra Costa Transit District shall be~~
37 ~~deposited in the general fund of the county in which the citation~~
38 ~~is administered.~~

39 ~~(10) All fare evasion and passenger conduct violation penalties~~
40 ~~collected by the Southern California Regional Rail Authority shall~~

1 be deposited in the general fund of the county in which the citation
2 is administered.

3 ~~(11) All fare evasion and passenger conduct violation penalties~~
4 ~~collected by the North County Transit District shall be deposited~~
5 ~~in the general fund of the County of San Diego.~~

6 (d) (1) If a fare evasion or passenger conduct violation is
7 observed by a person authorized to enforce the ordinance, a notice
8 of fare evasion or passenger conduct violation shall be issued. The
9 notice shall set forth the violation, including reference to the
10 ordinance setting forth the administrative penalty, the date of the
11 violation, the approximate time, and the location where the
12 violation occurred. The notice shall include a printed statement
13 indicating the date payment is required to be made, and the
14 procedure for contesting the notice. The notice shall be served by
15 personal service upon the violator. The notice, or copy of the
16 notice, shall be considered a record kept in the ordinary course of
17 business of the issuing agency and the processing agency, and
18 shall be prima facie evidence of the facts contained in the notice
19 establishing a rebuttable presumption affecting the burden of
20 producing evidence.

21 (2) When a notice of fare evasion or passenger conduct violation
22 has been served, the person issuing the notice shall file the notice
23 with the processing agency.

24 *(3) If, after a notice of fare evasion or passenger conduct*
25 *violation is issued pursuant to this section, the issuing officer*
26 *determines that there is incorrect data on the notice, including,*
27 *but not limited to, the date or time, the issuing officer may indicate*
28 *in writing on a form attached to the original notice the necessary*
29 *correction to allow for the timely entry of the corrected notice on*
30 *the processing agency's data system. A copy of the correction shall*
31 *be mailed to the address provided by the person cited at the time*
32 *the original notice of fare evasion or passenger conduct violation*
33 *was served.*

34 ~~(3)~~

35 (4) If a person contests a notice of fare evasion or passenger
36 conduct violation, the issuing agency shall proceed in accordance
37 with Section 99581.

38 (e) In setting the amounts of administrative penalties for the
39 violations listed in subdivision (b), ~~the City and County of San~~
40 ~~Francisco, the Los Angeles County Metropolitan Transportation~~

1 ~~Authority, the Santa Clara Valley Transportation Authority, the~~
2 ~~Sacramento Regional Transit District, the Southern California~~
3 ~~Regional Rail Authority, Long Beach Transit, Foothill Transit, the~~
4 ~~North County Transit District, and the Alameda-Contra Costa~~
5 ~~Transit District~~ *public transportation agency* shall not establish
6 penalty amounts that exceed the maximum fine amount set forth
7 in Section 640 of the Penal Code.

8 (f) A person who receives a notice of fare evasion or passenger
9 conduct violation pursuant to this section shall not be subject to
10 citation for a violation of Section 640 of the Penal Code.

11 (g) If an entity enacts an ordinance pursuant to this section it
12 shall, both two years and five years after enactment of the
13 ordinance, report all of the following information to the Senate
14 Committee on Transportation and Housing and the Assembly
15 Committee on Transportation:

16 (1) A description of the ordinance, including the circumstances
17 under which an alleged violator is afforded the opportunity to
18 complete the administrative process.

19 (2) The amount of the administrative penalties.

20 (3) The number and types of citations administered pursuant to
21 the ordinance.

22 (4) To the extent available, a comparison of the number and
23 types of citations administered pursuant to the ordinance with the
24 number and types of citations issued for similar offenses and
25 administered through the courts both in the two years prior to the
26 ordinance and, if any, since enactment of the ordinance.

27 (5) A discussion of the effect of the ordinance on passenger
28 behavior.

29 (6) A discussion of the effect of the ordinance on revenues to
30 the entity described in subdivision (a) and, in consultation with
31 the superior courts, the cost savings to the county courts. The
32 superior courts are encouraged to collaborate on and provide data
33 for this report.

34 *SEC. 3. Section 1.5 of this bill incorporates amendments to*
35 *Section 640 of the Penal Code proposed by both this bill and*
36 *Assembly Bill 2247. It shall only become operative if (1) both bills*
37 *are enacted and become effective on or before January 1, 2013,*
38 *(2) each bill amends Section 640 of the Penal Code, and (3) this*
39 *bill is enacted after Assembly Bill 2247, in which case Section 1*
40 *of this bill shall not become operative.*

1 *SEC. 4. Section 2.5 of this bill incorporates amendments to*
2 *Section 99580 of the Public Utilities Code proposed by both this*
3 *bill and Assembly Bill 2247. It shall only become operative if (1)*
4 *both bills are enacted and become effective on or before January*
5 *1, 2013, (2) each bill amends Section 99580 of the Public Utilities*
6 *Code, and (3) this bill is enacted after Assembly Bill 2247, in which*
7 *case Section 2 of this bill shall not become operative.*

O